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Commerce, 139 Mass. 513; *Thompson v. Bank*, 82 N. Y. 1. But to this rule there is the well settled exception that where a draft with a forged indorsement has been put into circulation by the drawer or his agent, no recovery is allowed by the drawee as against the bona fide holder to whom he has paid. *Hortsmann v. Henshaw*, 11 How. 177. The latter class of cases are held to be analagous to those where a draft is drawn and indorsed in the name of a fictitious payee, in which case the drawer or his principal is estopped to deny its validity. *Meachers v. Fort*, 3 Hill (S. C.), 227; *Phillips v. Mer. Nat. Bank*, 140 N. Y. 556, 23 L. R. A. 554; *Coggill v. Amer. Ex. Bank*, 1 N. Y. 113, 49 Amer. Dec. 310. By virtue of the relations in this case between the drawee and the drawer it was argued that the exception to the general rule as to mistake ought to apply, and the defendant be discharged. But the court held, very justly, it seems, that the bill of sale on the back of the draft was sufficient notice to defendant of the arrangement between drawer and drawee, to have put defendant on its guard and that the bill of sale was really a part of the draft. Thus though the signature on the draft was genuine, the instrument itself was fraudulent and defendant must suffer the loss. *Weisser v. Dennison*, 10 N. Y. 69; note 12 L. R. A. 791; 5 Cyc. 547, et seq.

CONSTITUTIONAL LAW—EQUAL PROTECTION OF THE LAWS—MASTER AND SERVANT—RAILROAD FELLOW SERVANTS' ACT.—Action to recover damages for the wrongful death of plaintiff's intestate, a fireman on an engine of defendant, resulting from a collision due to the negligence of the engineer of another train. The action is brought on the Ohio Act of 1890, p. 150, which renders a railroad company liable for the negligence of a superior fellow servant and makes all employees, having control of one or more employees, a superior. The defense was that the law is unconstitutional as class legislation. Held, that the classification established by the Act is reasonable and valid. *Kane v. Erie R. Co.* (1905), 133 Fed. Rep. 681.

The principle is well established that the states have a right to make discriminations, provided they are founded on a reasonable basis, and it is doubtful whether the classification established by the Act in question is reasonable, because, as it was argued in the lower court (128 Fed. Rep. 474), it gives a remedy to some employees and denies it to others, the test being whether the negligent employee was a superior fellow servant. However, inasmuch as the Act in question has been before the Ohio Supreme Court incidentally and that court has upheld its constitutionality (*R. R. Co. v. Shanower* [1904], 70 Oh. St. 166, and *Margrat v. R. R.* 51 Oh. St. 130) and the majority of the Ohio inferior courts have upheld it in cases where its validity was directly in question (*Roe v. R. R.* 13 Oh. Dec. 260; *Froelich v. R. R.* 24 Ohio Cir. Ct. Rep. 359; *Ry. Co. v. Hottman*, 25 Oh. Cir. Ct. Rep. 140; but see *Malby v. R. R.* 13 Oh. Dec. 280), it seems that the Federal Circuit Court of Appeals is justified in holding the statute constitutional under the maxim that statutes are presumed to be constitutional, unless the contrary is apparent. Before the enactment of the Act of 1890, it was the rule in Ohio that where one employee is put under the control of another, the railroad company is liable for injuries

resulting from the negligence of such superior fellow servant. *Little Miami R. R. Co. v. Stevens*, 20 Ohio, 416. The Act of 1890 only gives statutory force to that rule and broadens somewhat the class of superior fellow servants. The Ohio rule has been recognized in some states and repudiated in others. See 12 AM. & ENG. ENCY. OF LAW, p. 922 to 946, where constitutional and statutory provisions and the holdings of the several states in regard to the Ohio Superior Fellow Servants' rule are discussed in detail.

CORPORATE STOCK—STATUTE REQUIRING REGISTRATION OF TRANSFER—ATTACHMENT.—An Arkansas statute provides that no transfer of corporate stock shall be valid, as against a creditor of the stockholder, until a certificate thereof shall have been deposited with the county clerk. About 600 shares of stock in the Park Hotel Company were attached as belonging to the transferor, because the transfer had not yet been registered. *Held*, that a creditor of a stockholder will prevail over unregistered transfers, even when knowledge of them is actually possessed by the creditor. *Scott et al. v. Hought et al.* (1904), — Ark. —, 83 S. W. Rep. 1057.

Arkansas is one of the few jurisdictions in which a statute of this kind is found. In *Fahrney v. Kelley*, 102 Fed. Rep. 406, Judge Rogers, even though sustaining the law, says: "A literal interpretation of that statute practically paralyzes the handling of stocks of corporations, organized under the statutes referred to, by the commercial world, and the statute itself is entirely out of harmony with the great mass of statutory law in the different states in this country." Neither the majority nor the dissenting opinion in the principal case made any reference to this decision of Judge Rogers. By the better and more liberal rule an unrecorded transfer of stock is like an unrecorded deed of land, and gives good title as against subsequent attachments or executions, even though the latter are levied in ignorance of the unrecorded deed or transfer. COOK ON CORPORATIONS, Sec. 486; MORAWETZ ON PRIVATE CORPORATIONS, Secs. 195, 196. See contra 30 AMERICAN LAW REVIEW, 223. As shown in the dissenting opinion the purpose of the deposit of the certificate with the clerk is to give notice to creditors. Actual notice is equivalent to registration as to all persons who have received it. *May v. Cleland*, 44 L. R. A. 163, 117 Mich. 45. Yet in the principal case the transfer had actually been recorded in the books of the corporation previous to the attachment of the shares, though the certificate was not yet deposited with the county clerk. The statute and the strict interpretation given by the court seem clearly contrary to the weight of authority and the general liberal tendency in regard to such transfers.

CRIMINAL LAW—EVIDENCE—CONFIDENTIAL COMMUNICATIONS—LETTERS FROM ACCUSED TO WIFE.—The accused, arrested for a grave offense, wrote a highly incriminating letter to his wife, and gave it to a negro who visited him at the jail for delivery to her. The negro took it to where she was living at the time and meeting her father at the gate, gave it to him, asking him to deliver it. This the latter refused to do, but having taken the letter, he delivered it to one who introduced it in evidence at the trial. *Held*, that the